

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ANTHONY N. POTENZA,

Plaintiff,

v.

DANIEL GONZALES,

Defendant.

NOTICE OF REMOVAL

Civil Action No. _____

PLEASE TAKE NOTICE THAT:

1. Defendant Daniel Gonzalez ("Gonzalez"), incorrectly named as "Gonzales," hereby removes the above-captioned action to the United States District Court for the Northern District of New York. The bases for Federal Jurisdiction are 28 U.S.C. §§ 1331 and 1441(a) and (b);

2. Gonzalez was served on February 2, 2007 with a Summons with Notice, attached hereto as Exhibit A, filed in New York State Supreme Court, County of Tompkins on January 16, 2007 and assigned Index No. 07-0053. Cornell served a Demand for Complaint on February 21, 2007, attached hereto as Exhibit B, by regular mail on February 21, 2007. No other process, pleadings or court orders have been filed or served in this action to date.

3. Plaintiff's Summons with Notice alleges "damages for violation of 42 U.S.C. 1983 and 42 U.S.C. 1988" as the sole basis for his claim against Gonzalez. Because plaintiff's claims are explicitly and unequivocally based solely on 42 U.S.C. §§ 1983 and 1988, they must be construed as arising under the laws of the United States and hence the action is removable to this Court under 28 U.S.C. § 1441(b).

4. Defendant shall promptly file a copy of this Notice with the Clerk of the New York State Supreme Court, County of Tompkins.

WHEREFORE, defendant Daniel Gonzalez requests that this action proceed in this Court as an action properly removed thereto.

Dated: March 1, 2007



NELSON E. ROTH (102486)
VALERIE L. CROSS (505158)
WENDY E. TARLOW (507736)
NORMA W. SCHWAB (512215)

Attorneys for Defendant
Office and Post Office Address
300 CCC Building, Garden Avenue
Cornell University
Ithaca, New York 14853
(607) 255-5124

To: Richard M. Wallace, Esq.
Guttman & Wallace
Attorney for Plaintiff
411 N. Tioga Street
Ithaca, NY 14850

Edward E. Kopko, Esq.
Wiggins, Kopko & Crane
Attorney for Plaintiff
308 North Tioga Street
P.O. Box 399
Ithaca, New York 14851-0399

EXHIBIT A

RECEIVED/FILED
CLERK

STATE OF NEW YORK
SUPREME COURT: COUNTY OF TOMPSON JAN 16 PM 3:39

-----X
ANTHONY N. POTENZA,

Plaintiff

-against-

DANIEL GONZALES,

SUMMONS WITH
NOTICE

Index No. 07-0053
RJI No.

Defendant.
-----X

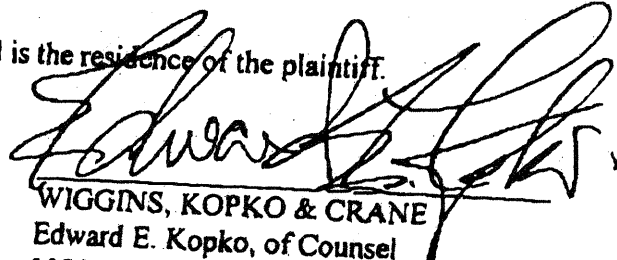
To the above-named Defendants:

You are hereby summoned to appear in this action by serving a notice of appearance on plaintiff's attorney within twenty days after the service of this summons, exclusive of the day of service, or within thirty days after service is complete if this summons is not personally delivered to you within the State of New York.

Take notice that the nature of this action and the relief sought is to recover damages for violation of 42 USC 1983 and 42 USC 1988, and that in case of your failure to appear judgment will be taken against you by default for a sum exceeding the jurisdiction of all lower courts, with interest from the 16th day of January, 2007, plus the costs and disbursements of this action.

The basis of the venue designated is the residence of the plaintiff.

Dated: January 16, 2007.


WIGGINS, KOPKO & CRANE
Edward E. Kopko, of Counsel
308 N. Tioga Street
P.O. Box 399
Ithaca, New York 14851-0399
(607) 272-0479

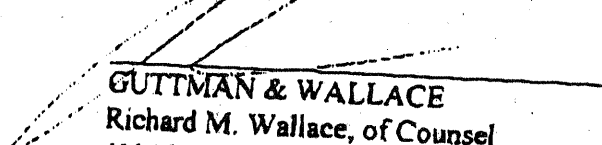

GUTTMAN & WALLACE
Richard M. Wallace, of Counsel
411 N. Tioga Street
Ithaca, New York 14850
(607) 272-2102

EXHIBIT B

STATE OF NEW YORK
SUPREME COURT : TOMPKINS COUNTY

ANTHONY N. POTENZA,

Plaintiff,

v.

DANIEL GONZALES,

Defendant.

DEMAND FOR COMPLAINT

Index No. 07-0053

RJI No. _____

PLEASE TAKE NOTICE THAT, pursuant to New York Civil Practice Law and Rules § 3012(b), the defendant Daniel Gonzalez (incorrectly named herein as Daniel Gonzales) hereby demands that a copy of the complaint in this action be served upon the undersigned at the office and post office address stated below.

Dated: Ithaca, New York
February 21, 2007



NELSON E. ROTH
VALERIE L. CROSS
WENDY E. TARLOW
Attorneys for Defendant Daniel Gonzalez
Office and Post Office Address
Cornell University
300 CCC Bldg., Garden Avenue
Ithaca, New York 14853
(607)255-5124

To: Edward E. Kopko, Esq.
Wiggins, Kopko & Crane
Attorney for Plaintiff
308 North Tioga Street
P.O. Box 399
Ithaca, New York 14851-0399

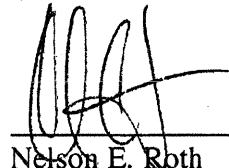
Richard M. Wallace, Esq.
Guttman & Wallace
411 North Tioga Street
Ithaca, New York 14850

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of defendant Daniel Gonzalez's Notice of Removal have been served by mailing same U.S. mail postage prepaid on this 1st day of March, 2007, to the following:

Richard M. Wallace, Esq.
Guttman & Wallace
411 N. Tioga Street
Ithaca, NY 14850

Edward E. Kopko, Esq.
Wiggins, Kopko & Crane
308 North Tioga Street
P.O. Box 399
Ithaca, New York 14851-0399

A handwritten signature in black ink, appearing to read 'Nelson E. Roth', is written over a horizontal line.

Nelson E. Roth
Bar Roll No. 102486